



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene
Office of Health Care Quality
Bland Bryant Building • Spring Grove Center
55 Wade Avenue • Catonsville, Maryland 21228

MEMORANDUM

DATE: April 12, 2005

TO: Administrators
Comprehensive and Extended Care Facilities

FROM: Carol Benner
Director, Office of Health Care Quality

SUBJECT: CMS Clarification of Nursing Home Reporting Requirements for All Alleged Violations of Neglect and Abuse, Including Injuries of Unknown Source, and Misappropriation of Resident Property

The purpose of this Memorandum is to clarify a nursing home's obligation to report allegations and the results of investigations of these alleged violations involving resident neglect, or abuse, including injuries of unknown source, and misappropriation of resident property. We are issuing this Memorandum in response to recent clarification by the Centers for Medicare and Medicaid Services (CMS). Survey and Certification Letter 05-09, December 16, 2004.

Per CMS, the facility must report all alleged violations involving resident neglect, or abuse, including injuries of unknown source, and misappropriation of resident property as soon as possible but no later than 24 hours after discovery of the incident to the State Survey and Certification Agency (in Maryland, the Office of Health Care Quality --OHCQ).

The results of all investigations must be reported to the Office of Health Care Quality within five working days of the alleged violation.

These requirements are set out in 42 C.F.R. §483.13 for facilities that participate in the Medicare and/or Medicaid programs. (Facilities not participating in Medicare/Medicaid programs are also advised to adhere to these reporting requirements.) We will be reviewing State regulations to determine whether they must be revised as a result of CMS' guidance. Please note that reporting to OHCQ will not replace or substitute for a facility's obligation to report to law enforcement or other State agencies in circumstances required under State law. We encourage you to continue to work with your local Ombudsmen, as well.

Thank you for your cooperation. The CMS survey and certification letter is available on-line at www.cms.hhs.gov/Medicaid/survey-cert/.

GUIDANCE:

Toll Free 1-877-4MD-DHMH • TTY for Disabled – Maryland Relay Service 1-800-735-2258
Web Site: www.dhmh.state.md.us

For convenience, we have provided a Comprehensive/Extended Care Facility Self-Report Form on the OHCQ web site be utilized to forward the first report and results of investigation to OHCQ. This form can be faxed to 410-402-8234 or e-mailed to nhselfreport@dhmh.state.md.us.

If the facility chooses to use another form for reporting, it should at the minimum include the following information:

For first report:

Facility Name, Address, phone number

Date

Name of person completing report, direct telephone number

Name of resident(s) involved

Type report - abuse, neglect, injury of unknown source, misappropriation of resident property

Date, time, location of incident

Witnesses

Events of incident

Status of resident

Measures taken to prevent further incidents while investigation is being conducted

Contact with law enforcement agencies

For investigation report:

Results of investigation

Status of resident

Measures taken to prevent future incidents of similar nature

DEFINITIONS: Source: S&C -05-09

Neglect – Failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

Abuse – The willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish.

Injuries of unknown source – An injury should be classified as an “injury of unknown source” when **both** of the following conditions are met:

- The source of the injury was not observed by any person OR the source of the injury could not be explained by the resident; AND
- The injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma) OR the number of injuries present OR the incidence of injuries over time.

Misappropriation of Resident Property – The deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident’s belongings or money without the resident’s consent.